



## CITY OF WILLIAMSBURG

### MEMORANDUM

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**TO: Planning Commission**

**DATE: October 14, 2005**

**SUBJECT: 2005 Comprehensive Plan  
"Three Person Rule"**

An issue that is important for the stability of the City's residential areas is establishing a fair limit for the number of unrelated occupants of a dwelling unit. This has been referred to as the "three-person rule." This is the zoning ordinance definition that defines a family as no more than three unrelated persons living and cooking together as a single housekeeping unit. This limits the occupancy of a house or apartment to no more than three students, and was established when the zoning ordinance was revised in 1991 (the previous regulation was not more than four unrelated persons). Concerns with this regulation were pointed out by the Sharpe survey, and a City staff/W&M student committee was formed to study this issue. The issues that need to be considered in resolving this issue are reasonableness of the regulation, enforceability, and impact on residential neighborhoods.

The three options are:

- (1) Leave the current "three person rule" in place.
- (2) Revert to the old "four-person rule" that existed prior to 1991.
- (3) Allow additional occupants in dwelling units based on a special use permit (City Council approval) or a special exception (Board of Zoning Appeals approval) plus established criteria such as number of bathrooms/bedrooms in the dwelling, number of parking spaces available on the site, size of the lot, etc. Ordinances from other jurisdictions addressing this issue are attached.

The Commission needs to decide what the Comprehensive Plan should recommend for residential occupancy limits. This policy would be reflected in *Chapter 8 – Neighborhoods and Housing* (Pages 8-2, 8-10 and 8-13), and *Chapter 9 – Institutions* (William and Mary section). The details of the implementation, if changes need to be made, would be work following the adoption of the Plan as specific Zoning Ordinance amendments are drafted.

Reed T. Nester, AICP  
Planning Director



## **HOUSING PLAN**

The 2005 Comprehensive Plan envisions a multifaceted Housing Plan that is detailed in the following sections of this chapter. The Housing Plan is summarized below:

1. Preserve and protect the City's single-family neighborhoods. These neighborhoods range from Center City neighborhoods that are impacted by the College of William and Mary such as College Terrace, West Williamsburg Height, Chandler Court and Indian Springs; older neighborhoods like Highland Park, Pinecrest, Walnut Hills, and Skipwith Farms; and new neighborhoods including Piney Creek, Holly Hills and Brandywyne. The majority of the City's owner-occupied housing is located in these areas.
2. Encourage a greater residential presence in the Center City area. To enhance the high-quality mixed-use character of this area, the allowable residential density should be increased to 22-units/net acre. A special use permit should be required for higher densities south of Merchants Square to insure compatibility with existing single-family neighborhoods.
3. Encourage new mixed-use neighborhoods. New higher density housing should take place in a master planned mixed-use context, such as in High Street Williamsburg and Quarterpath at Williamsburg.
4. Limit high density residential development to existing areas. High density residential is primarily concentrated in the following areas: Merrimac Trail/Parkway Drive, Mount Vernon Avenue, Patriot Lane/(Claiborne), and the Jamestown Road/Route 199 intersection. With \_\_\_% of the City's dwelling units multi-family, the City has its fair share of this land use. New high density development should be integrated with commercial development into a master planned mixed use development instead of freestanding monolithic developments.
5. Limit residential uses in Corridor Commercial areas. These areas should be reserved for commercial rather than residential uses. Sufficient land is available outside of Corridor Commercial areas for the City's housing needs.
6. Encourage the development of low and moderate income owner-occupied housing in appropriate locations. The City, primarily through the efforts of the Williamsburg Redevelopment and Housing Authority, has developed 104 subsidized rental units and 75 owner occupied single-family dwellings. Future efforts for affordable housing should concentrate primarily on owner-occupied housing.
7. Establish reasonable occupancy limits for dwelling units. The Zoning Ordinance regulations should ...

### **\*\*\*INSERT RECOMMENDED SOLUTION\*\*\***

8. Take proactive steps to promote property maintenance and neighborhood preservation. This includes enforcement of the Property Maintenance Code and Rental Inspection Program. The City should work closely with the College of William and Mary on issues related to student-oriented housing, including the provision of additional on- and off-campus housing.

# THREE-PERSON RULE

The “three-person rule” is contained in the Zoning Ordinance definitions of family, dwelling, and dwelling unit, Sec. 21-2, Definitions, of the Zoning Ordinance.

## *Family:*

- (a) A family is, exclusive of household servants:
  - (1) An individual;
  - (2) Two or more persons related by blood, adoption, marriage or guardianship, living and cooking together as a single housekeeping unit;
  - (3) A number of persons, not exceeding three (3), living and cooking together as a single housekeeping unit though not related by blood, adoption, marriage or guardianship; or
  - (4) Not more than two unrelated persons living and cooking together as a single housekeeping unit, along with one or more dependents related to either of them by blood, marriage, adoption or guardianship.
- (b) For purposes of single-family residential occupancy, family shall be deemed to include group homes or other residential facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services occupied by not more than eight (8) mentally ill, mentally retarded or developmentally disabled persons together with one (1) or more resident counselors or other staff persons. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia, Sec. 15.1-3401.

*Dwelling* means any building or portion thereof which is designed or used exclusively for residential purposes, but not including hotels, motels, time-share units, travel trailers, recreational vehicles, or similar accommodations.

- (1) *Single family detached* means a separate, detached building containing one dwelling unit.
- (2) *Duplex* means a separate, detached building containing two dwelling units, which dwelling units may be on separate lots.
- (3) *Multifamily* means a building containing three or more dwelling units; or one or more dwelling units when the primary use of the building is for a permitted non-residential use.
- (4) *Townhouse* means a single family attached dwelling, containing one dwelling unit, in a row of not less than three nor more than ten such units. Each unit shall be separated from adjacent dwellings by solid party walls, and shall be located on a separate lot of record.

*Dwelling unit* means one or more rooms arranged, designed or intended to be occupied as separate living quarters by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

## RESIDENTIAL OCCUPANCY LIMITS FROM VARIOUS ZONING ORDINANCES

### LEXINGTON

*Family.* One or more persons related by blood, adoption or marriage, living or cooking together as a single housekeeping unit. The persons constituting a family may include foster children and domestic servants.

#### R-1, R1-A Single Family District

*Single-family dwellings.* A maximum of three unrelated individuals may constitute a household unit.

#### R1/R1-A Conditional Use Permit

- (d) Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when they expire subject to their compliance with the following restrictions:
  - (1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.
  - (2) An application for renewal of a conditional use permit to exceed restriction on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking, and illustrating the location, dimension and use of all rooms making up the dwelling unit.
  - (3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the city to confirm that all BOCA code provisions have been met.
  - (4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.
  - (5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.
  - (6) Conditional use permits associated with this provision shall not be granted in perpetuity, but instead for specific periods of time.
  - (7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.

## LEXINGTON (Continued)

### R-M Multifamily District

- (a) Single-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- (b) Two-family dwellings. A maximum of four unrelated individuals may constitute a household unit in each dwelling unit.
- (c) Apartment houses. A maximum of four unrelated individuals may constitute a household unit.
- (d) Townhouses. A maximum of four unrelated individuals may constitute a household unit.

### Sec. 28-33.1. Conditional uses (R-M District).

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in section 28-11:

- (b) Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when their current conditional use permits expire subject to their compliance with the following restrictions:
  - (1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.
  - (2) An application for a conditional use permit to exceed restriction on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking, and illustrating the location, dimension and use of all rooms making up the dwelling unit.
  - (3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the city to confirm that all BOCA code provisions have been met.
  - (4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.
  - (5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.
  - (6) Conditional use permits associated with this provision shall not be granted in perpetuity, but instead for specific periods of time.
  - (7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.

## **CHARLOTTESVILLE**

*Family* for purposes of the city's zoning ordinance, refers to persons residing together as a single housekeeping unit. See "occupancy, residential."

*Occupancy, residential* for purposes of this zoning ordinance, this term refers to the number of persons who may reside together within one (1) dwelling unit, as a single housekeeping unit. Each of the following shall be deemed a single housekeeping unit: (i) one (1) person; (ii) two (2) or more persons related by blood or marriage, together with any number of their children (including biological children, stepchildren, foster children, or adopted children); (iii) two (2) persons unrelated by blood or marriage, together with any number of the children of either of them (including biological children, stepchildren, foster children, or adopted children); (iv) within certain designated university residential zoning districts: up to three (3) persons unrelated by blood or marriage; (v) within all other residential zoning districts: up to four (4) persons unrelated by blood or marriage; or (vi) a group of persons required by law to be treated as a single housekeeping unit, in accordance with the Federal Fair Housing Act, or a similar state law.

## **BLACKSBURG**

**FAMILY**--One or more persons related by blood, marriage, or adoption, or under approved foster care.

**OCCUPANT**--A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

R-4 Low Density Residential District

R-5 Transitional Residential District

- (e) The maximum dwelling unit occupancy shall be a family plus two persons unrelated to the family; or no more than three unrelated persons.

OTR Old Town Residential District

RM-27 Multifamily District

RM-48 Multifamily District

- The maximum dwelling unit occupancy shall be a family, plus two (2) persons unrelated to the family; or no more than four (4) unrelated persons.

## **DIVISION 25. SPECIAL HOUSING OVERLAY DISTRICT**

**Sec. 3250 Purpose.**

The Special Housing Overlay District is established to designate areas of town which are suitable for housing for student organizations including Greek organizations and

## **BLACKSBURG (Continued)**

service clubs, or other chartered groups bound by a common purpose or national organization. Ideally, special housing would be among the most attractive and well-maintained housing in a college community. Special housing use also may serve to preserve older residences and contributing historical structures within the town, preserving the residential character of a neighborhood as well.

Special housing poses significant challenges to the harmony of a neighborhood. These challenges stem from the number of people living together within the residence, the number of non-resident members of the organization that visit the house for organization business, and the number of people who attend social and entertainment events sponsored by the organization. In addition, through hard use, special housing can fall into disrepair.

Through the special use permit requirements contained in this Overlay District, the Town seeks to permit special housing, and to address the unique challenges that this type of housing entails. In this way, the Town seeks to facilitate the creation of a convenient, attractive, and harmonious community.

### **Sec. 4225 Special housing.**

- (a) Intent. These standards are intended to minimize the potential conflicts between Special housing and nearby residential uses, to insure that any residence used for Special housing is used in a safe manner, and to provide for adequate parking and recreational facilities as required by the resident organization.
- (b) Standards in the Special Housing Overlay District:
  - (1) Site development standards:
    - a. Minimum lot size: 8,500 square feet
    - b. Parking
      - 1. A minimum of one space per resident plus one space per 10 non-resident active members shall be provided. Parking must be provided off-street, behind the front building line, with an all-weather surface.
      - 2. Multiple student organizations may share one parking area, under the following conditions, in addition to those contained in Article V, Division 2: Meetings and/or social events are not held on the same date; The parking facilities must be within 800 feet of each house;
      - 3. Safe and convenient pedestrian access must exist or be provided;
      - 4. The area must contain at least one space for each bed available at both houses combined, plus one space per 10 non-resident active members of the larger of the organizations sharing parking.



## BLACKSBURG (Continued)

5. Parking requirements may be reduced with an approved mass transit or alternative transit plan per Article V, Division 2.
- c. Location. The house must be located on a Blacksburg Transit bus route or within 0.5 mile of campus.
- d. Storage. There shall be no outside storage of bicycles or other equipment, except a bike rack is permitted behind the front building line.
- e. Solid Waste. A solid waste dumpster with appropriate screening shall be provided for the use of the occupants of the house. As an alternative, a trash enclosure may be provided, behind the front building line. Dumpsters may be clustered in a shared location to serve adjacent special housing uses. The special housing shall meet the requirements for commercial solid waste and commercial recycling of Chapter 22 of the Town Code.
- f. Screening. Architectural screening of brick or wood panel, at least six feet in height shall be provided for any lot which abuts a single family, single family attached, two-family or townhome structure. The purpose of the architectural screening is to provide a visual barrier, as well as a noise barrier and physical obstacle between the properties, and the proposed design of the fence must accomplish these purposes. The architectural screening shall extend along the side yards from the front building line to the rear lot line, and along the rear lot line. Landscaping shall be provided adjacent to this screening on the exterior face.
- g. Recreation facilities. A specific recreational activity area or areas may be developed and maintained for the members of the organization. Any proposal for an outdoor recreational facility must be included in the special use permit application, or in the renewal request, or an application for special use permit amendment. The outdoor recreational facility should be designed to minimize the impacts upon adjacent properties, e.g. noise, lighting, and hours of operation. No overhead outdoor lighting shall be permitted for the illumination of an outdoor recreational facility.
- h. Outdoor furniture. Outdoor furniture shall be appropriate for such use. Indoor furniture, such as upholstered chairs and couches, shall not be used on porches, in yards, or other outside areas.
- i. Signs. An identification sign, attached to the residence, of a maximum size per the underlying district is permitted, with lighting directed toward the sign. The lighting shall not cause a glare onto adjacent properties or oncoming traffic. Any sign must be approved as an element of the special use permit.

## **BLACKSBURG (Continued)**

### **(2) Site Occupancy Standards**

- a. Maximum occupancy shall be in compliance with the Virginia Uniform Statewide Building Code for Existing Structures and the special use permit. The Town will conduct an annual inspection of the property to verify compliance.
- b. Building Maintenance shall be in compliance with the Virginia Uniform statewide Building Code for Existing Structures. The Town will conduct an annual inspection of the property to verify compliance.
- c. The organization shall have a Resident Manager. The name of the Resident Manager shall be registered annually with the Planning and Engineering Department. This person, or his or her designee, must be present during social events held at the house. The name of any designee shall be registered with the Police Department prior to the event.
- d. The organization shall make a prompt and effective response to neighborhood complaints concerning lifestyle conflicts such as, but not limited to, excessive noise, accumulation of debris, public intoxication of members or guests, trespassing, and property damage. A "neighborhood relations committee," consisting of representatives from the organization the neighborhood, civic organizations, and the Town, shall be established to receive, investigate, and respond to such complaints. For fraternities and sororities, membership in the umbrella organization created by the Town, Virginia Tech, the Interfraternal Council, and the Panhellenic Council, will fulfill this requirement.
- e. The organization shall take effective measures to ensure that activities conducted at the residence are conducted in compliance with Town and Virginia laws, including, but not limited to, laws pertaining to under-age drinking, public drunkenness, excessive noise, weeds and debris, overcrowding, sexual assault, and anti-hazing rules.
- f. The architecture and historic character of structures in the Special Housing zoning district shall be retained. The retention and use of existing structures that contribute to the character of the neighborhood shall be a consideration in the granting of a special use permit.

## **RADFORD**

*Family* means one or more persons related by blood, marriage or adoption, including foster children, or not more than five unrelated persons occupying a single dwelling unit, except as otherwise provided herein. Domestic servants or employees residing on the premises shall be considered as part of a family. The term "family" shall not be construed to include a fraternity, sorority, club or a group of persons occupying a hotel, motel, tourist home or lodginghouse, but shall include the occupants of a group home as defined in this article.

*University related housing* means housing facilities, including dormitories and similar facilities, which meet the criteria specified in the UD University District set forth in Article II of this chapter, and which are occupied by fraternities, sororities, or other organizations or by any other group of students whether organized or not organized, when such organizations or group of students occupying such housing facilities are affiliated with and/or sanctioned and recognized by the administration of Radford University.

## **STAUNTON**

"Family" means one or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, or hotel as defined herein.

### Chapter 18.180 OCCUPANCY LIMITATIONS

Sec. 18.180.010 Established.

For all dwelling units permitted in the various districts of this code, including, but not limited to, boarding houses, dwelling (attached), dwelling (multiple), dwelling (semi-attached), dwelling (single-family), dwelling (two-family), fraternity, sorority house, group house, housing for the elderly, multiple-family dwelling, rooming house, row dwelling and tourist home, the occupancy limitations set forth in Section PM-405.0 (PM 405-1 through PM 405.10, inclusive) of the BOCA National Property Maintenance Code/1996, as amended, shall apply, the provisions of which are adopted herein by reference. (Zoning ordinance Art. 5, § 16).

## **HARRISONBURG**

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, all of whom are related to each other by birth, adoption or marriage as distinguished from a group occupying a boardinghouse or hotel as herein defined.

### **R-1 Single Family District – Uses by Right**

- (1) Owner-occupied single-family dwellings, which may include rental of space for occupancy by not more than two (2) persons, providing such rental space does not include new kitchen facilities.
- (2) Nonowner-occupied single-family dwellings, which may include rental of space for occupancy by not more than one person, providing such rental space does not include new kitchen facilities.

### **R-3 Multifamily District**

#### **Uses by Right**

- (2) Dwelling units may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.

Uses permitted only by special use permit.

The following uses are permitted by special use permit only:

- (1) Boarding and rooming houses, complying with conditions as defined and limited in occupancy by one person per designated bedroom.